

## Message Text

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ACTION DLOS-06

INFO OCT-01 EUR-12 IO-13 ISO-00 ACDA-07 AGR-05 AID-05

CEA-01 CEQ-01 CG-00 CIAE-00 CIEP-01 COME-00 DODE-00

DOT-00 EB-07 EPA-01 ERDA-05 FMC-01 TRSE-00 H-02

INR-07 INT-05 JUSE-00 L-03 NSAE-00 NSC-05 NSF-01

OES-06 OMB-01 PA-01 PM-04 PRS-01 SP-02 SS-15 USIA-06

SAL-01 FEA-01 AF-08 ARA-06 EA-07 NEA-10 /158 W  
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P R 110043Z SEP 76

FM USMISSION USUN NEW YORK

TO SECSTATE WASHDC PRIORITY 9108

INFO AMEMBASSY OTTAWA

C O N F I D E N T I A L SECTION 1 OF 2 USUN 3682

FROM LOS DEL

E.O. 11652: GDS

TAGS: PLOS

SUBJECT: LAW OF THE SEA: COMMITTEE I: ARTICLE 9 PRODUCTION  
LIMITATION

1. SUMMARY: AMBASSADOR LEARSON AND COMMITTEE I MEMBERS  
OF U.S. DEL MET WITH CANADIAN LOS DELEGATION HEAD BEASLEY  
AND CANADIAN COMMITTEE I TEAM MEMBERS SEPTEMBER 9 TO RE-  
VIEW RESPECTIVE POSITIONS ON PRODUCTION LIMITATION  
CONTAINED IN ARTICLE 9 OF RSNT AND ALTERNATIVE CANADIAN  
PROPOSAL. DISCUSSION REVEALED NO CHANGE IN POSITIONS,  
BUT MADE CLEAR FOR THE FIRST TIME THAT CANADIAN INSISTENCE  
ON AN EFFECTIVE PRODUCTION CONTROL MECHANISM, WAS BASED  
ESSENTIALLY ON A DESIRE TO PROTECT ITS MINING INDUSTRY,  
FROM SEABED PRODUCTION UNDER ANY REGIME, NOT A FEAR OF  
DISCRIMINATION. THE U.S. CONTINUED TO INSIST ON "NON-  
BITE" PROVISION. BOTH SIDES AGREED ISSUE NOT LIKELY TO  
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RECEIVE GENERAL CONSIDERATION IN REMAINDER OF THIS

SESSION OF LOS SESSION, AND HENCE FURTHER DISCUSSIONS THIS SESSION NOT REQUIRED, BUT CANADIANS SUGGESTED THAT AN INTER-SESSIONAL MEETING IN OTTAWA FOLLOWING THEIR FURTHER CONSIDERATION OF U.S. POSITION WOULD BE DESIRABLE. END SUMMARY.

2. U.S. DEL MET WITH CANADIANS AT THEIR REQUEST SEPTEMBER 9, AFTER U.S. REQUEST FOR SUCH A MEETING HAD BEEN REBUFFED EARLIER IN THE CURRENT SESSION. IT WAS CLEAR THAT AMBASSADOR BEASLEY CONCERNED ABOUT LACK OF CONSULTATION ON PRODUCTION LIMITATION ISSUE, AND THEREFORE TOOK INITIATIVE IN REQUESTING MEETING, POSSIBLY UNDER PRODDING FROM OTTAWA.

3. BEASLEY OPENED BY REFERRING TO RECENT KISSINGER/MACEACHEN CONVERSATIONS AND TO CANADIAN PROPOSAL PRESENTED LATE LAST SESSION WHICH CALLED FOR LIMITING SEABED PRODUCTION TO ACTUAL GROWTH IN DEMAND FOR FIRST FIVE YEARS, FOLLOWED BY A PERIOD OF 50-50 ALLOCATION OF PRODUCTION TO MEET SUCH DEMAND BETWEEN SEABEDS AND LAND-BASED PRODUCTION. HE NOTED LANGUAGE IN RSNT, WHICH U.S. HAD ACCEPTED AND ON WHICH HE EMPHASIZED CANADA WAS NOT CONSULTED, PROVIDED FOR "NO LESS THAN" SIX PERCENT GROWTH, WHICH WAS MORE A FLOOR THAN A CEILING, AND THAT CANADIANS IN ANY CASE QUESTIONED VALIDITY OF THE FIGURE ITSELF AS REPRESENTING ACTUAL GROWTH.

4. BEASLEY SAID THAT AS A MAJOR PRODUCER OF NICKEL, CANADA WISHED TO BE INVOLVED IN ANY SOLUTION OF THE PROBLEM. HE SUGGESTED THAT MAJOR U.S. MOTIVE IN ACCEPTING RSNT LANGUAGE WAS ITS INTEREST IN SELF-SUFFICIENCY IN MINERALS CONCERNED, IN PARTICULAR NICKEL, OF WHICH CANADA WAS MAJOR SUPPLIER TO U.S. MARKET. IN THIS CONNECTION, CANADIANS WERE AWARE THAT SEABEDS PRODUCTION PROSPECTS NOT TOO BRIGHT AND THAT PRODUCTION WHICH WOULD BEGIN TO COME ON THE MARKET IN THE 1980S WOULD BE COMPETITIVE ONLY WITH LOWER-GRADE NICKEL SOURCES, BUT FEARED POSSIBILITY OF SUBSIDIZATION BY THE U.S. OF UNECONOMIC SEABEDS PRODUCTION. (LATER CONFIDENTIAL

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ON, WHEN U.S. REPEATED OUR POSITION OF OPPOSING SUCH SUBSIDIES, BEASLEY POINTED OUT SUBSIDY MIGHT ALSO BE UNDERTAKEN BY OTHER DEEP SEABEDS PRODUCERS, IN PARTICULAR ENTERPRISE, WHICH U.S. WAS NOW PROPOSING BE GIVEN FINANCIAL ASSISTANCE).

5. BEASLEY SAID THE MOST REALISTIC BASIS FOR CARRYING ON TRADE IN THE MINERALS CONCERNED FROM CANADA'S

POINT OF VIEW WOULD BE TO USE THE FREE MARKET. BUT GIVEN THE POSSIBILITY OF UNECONOMIC SUBSIDIZATION, CANADA WAS CONCERNED ABOUT DISRUPTION OF ITS PRODUCTION. WHILE HE WAS AWARE OF U.S. ASSERTIONS THAT CANADA WAS SEEKING PROTECTION FOR ITS CURRENT LAND-BASED PRODUCTION, CANADA WAS SEEKING RATHER ASSURANCES THAT IT WOULD NOT BE DAMAGED BY SEABEDS PRODUCTION. SUCH DAMAGE WOULD CREATE SERIOUS SOCIAL AND POLITICAL PROBLEMS. CANADA WISHED -- AND BEASLEY SAID THAT HE THOUGHT THIS WAS BEING SAID CLEARLY PERHAPS FOR THE FIRST TIME IN BI-LATERAL DISCUSSIONS WITH THE U.S. -- AN "EFFECTIVE LIMITATION ON SEABED MINING", OR, AS HE PHRASED IT LATER IN THE DISCUSSION, "ACTUAL CONTROLS RATHER THAN A NON-BITE PROVISION".

6. AMBASSADOR LEARSON STATED THAT IT SHOULD BE CLEARLY UNDERSTOOD THAT THE PREFERRED U.S. POSITION WAS THAT THERE BE NO PROVISION ON PRODUCTION LIMITATION AT ALL. THE U.S. PREFERRED TO ALLOW THE FREE MARKET TO OPERATE AS A MATTER OF GENERAL POLICY. THIS POSITION WAS NOT ACCEPTABLE TO THE DEVELOPING COUNTRIES, HOWEVER, IN PARTICULAR THE LAND-BASED COPPER PRODUCERS, AT THE CONFERENCE. FOR THAT REASON WE HAD COME UP WITH A FORMULA WHICH WAS NOW IN THE RSNT WHICH SET FORTH A "NON-BITE" PRODUCTION LIMITATION FOR AN INTERIM PERIOD. IT WAS INTENDED TO GIVE LAND-BASED COPPER PRODUCERS ASSURANCES AND WAS NOT DIRECTED AT NICKEL. THE CANADIAN CONCERN ABOUT SUBSIDIES TO SEABED PRODUCTION WAS UNFOUNDED, SINCE THE PROBABILITY OF SUCH SUBSIDIES EITHER BEING ENDORSED BY THE U.S. EXECUTIVE BRANCH OR PASSED BY THE U.S. CONGRESS IS NIL. THE FORMULA WHICH THE CANADIANS WERE PROPOSING WENT FAR MORE DEEPLY INTO CONTROLS THAN OTHER VARIA-  
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TIONS OF THE RSNT PROPOSAL HE HAD SEEN; IT CALLED FOR MARKET-SHARING BETWEEN LAND-BASED AND SEABEDS PRODUCTION, SOMETHING WHICH THE U.S. COULD NOT ACCEPT.

7. U.S. ALSO POINTED OUT THAT ONE DIFFICULTY WITH CANADIAN FORMULATION WAS THAT IT REFERRED TO ACTUAL GROWTH OF NICKEL DEMAND, WHICH WE HAD CONSIDERED IN OUR OWN INTERNAL DISCUSSIONS, AND REJECTED BECAUSE WE FELT IT WOULD LEAD TO LENGTHY AND POSSIBLY UNRESOLVED DISCUSSIONS ON WHAT THAT GROWTH ACTUALLY WAS, BASED ON DIFFERENT STATISTICAL DATA. REGARDING CANADIAN COMPLAINT ABOUT LACK OF CONSULTATION ON ARTICLE 9 RSNT DRAFT, US DEL NOTED THAT CANADA HAD NOT AT ANY TIME SINCE LOS BEGAN IN 1969 INDICATED THAT IT WAS SERIOUSLY CONCERNED ABOUT AN EFFECTIVE PRODUCTION LIMITATION

FOR THEIR OWN NATIONAL INTEREST. CANADIAN DEL CONCEDED THAT IN THE PAST THEY HAD STATED THEIR VIEWS IN TERMS OF WHAT WOULD BE REQUIRED IN THE TREATY TO PROTECT OTHERS.

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INFO OCT-01 EUR-12 IO-13 ISO-00 ACDA-07 AGR-05 AID-05

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INFO AMEMBASSY OTTAWA

C O N F I D E N T I A L SECTION 2 OF 2 USUN 3682

FROM LOS DEL

8. BEASLEY AND OTHER CANADIAN OFFICIALS PRESENT NOTED THAT THERE WAS A CLEAR DIFFERENCE BETWEEN THE U.S. AND THE CANADIAN POSITIONS. THE U.S. OPENLY ADMITTED ITS AGREEMENT TO THE CURRENT ARTICLE 9 TEXT WAS BASED ON THE UNDERSTANDING THAT IT WAS NOT EFFECTIVE, WHEREAS THE CANADIANS WANTED A PRODUCTION CONTROL. THEY DID NOT AGREE WITH THE U.S. VIEWS ON WHETHER OR NOT ACTUAL SEABED PRODUCTION IN THE NEXT 20 YEARS UNDER THE ARTICLE 9 FORMULA WOULD AFFECT CANADIAN LAND-BASED PRODUCTION, (LATER ON, US DEL PRESSED THEM TO REEXAMINE U.S. FIGURES). THERE HAD BEEN AN EXTENSIVE REVIEW OF THIS POSITION AMONG ALL AGENCIES IN OTTAWA PRIOR TO THE CURRENT SESSION, AND

WITH PROVINCIAL OFFICIALS AS WELL, AND ALL WERE SERIOUSLY CONCERNED ABOUT POSSIBLE DAMAGE TO CANADIAN INDUSTRY UNDER THE REGIME SET FORTH IN ARTICLE 9. THE CANADIAN INDUSTRY DID NOT OPPOSE THIS CANADIAN GOVERNMENT  
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POSITION (AN ASSERTION WHICH WAS CONFIRMED BY THE CANADIAN INDUSTRY OFFICIAL PRESENT, ALTHOUGH HE STRESSED THAT CANADIAN INDUSTRY'S PREFERRED POSITION WAS THAT THE FREE MARKET BE ALLOWED TO OPERATE).

9. AT ONE POINT IN THE DISCUSSIONS, BEASLEY SUGGESTED THAT "IN THE LIGHT OF RECENT DISCUSSIONS IN OTTAWA" THERE MIGHT BE SOME RETHINKING OF THE CANADIAN POSITION ON ONE ASPECT OF ITS PROPOSAL, NAMELY, THE PROPOSAL FOR A FIFTY-FIFTY ALLOCATION OF DEMAND BETWEEN LAND-BASED AND SEABED PRODUCTION, BUT OTHER MEMBERS OF HIS DELEGATION DID NOT FOLLOW UP ON THIS, ALTHOUGH BEASLEY INVITED THEM TO DO SO. BEASLEY ALSO SUGGESTED LATE IN THE DISCUSSIONS THAT HE WOULD BE PREPARED TO PUT TO OTTAWA THE QUESTION OF WHETHER CANADA SHOULD BE PREPARED TO ACCEPT A "NO-BITE" PROVISION IF IT WERE TIED TO ADEQUATE ASSURANCES ABOUT NO SUBSIDIZATION OF SEABED PRODUCTION, ALTHOUGH HE THOUGHT THIS WOULD BE REJECTED.

10. BEASLEY CLOSED BY ASKING WHETHER U.S. WAS PREPARED TO FURTHER CONSIDER THE CANADIAN PROPOSAL AND WHETHER A FURTHER MEETING BETWEEN THE TWO SIDES MIGHT BE DESIRABLE. HE THOUGHT THAT IT WAS UNLIKELY THAT ARTICLE 9 WOULD BE TAKEN UP AT THE CURRENT SESSION AND HENCE THERE WAS NO URGENCY FOR ANOTHER MEETING IN THE NEAR FUTURE, BUT THAT IT WOULD BE USEFUL TO HAVE A MEETING IN OTTAWA IN THE FALL ON THE WHOLE RANGE OF COMMITTEE I SUBJECTS, INCLUDING ARTICLE 9.

11. US (RATINER) RESPONDED THAT IT WOULD BE MISLEADING TO LEAVE THE IMPRESSION THAT THE U.S. WAS PREPARED TO STUDY FURTHER THE CANADIAN PROPOSAL PRIOR TO A FURTHER MEETING, BUT THAT CERTAINLY FURTHER CONSULTATION ON THE SUBJECT WAS DESIRABLE. IT WAS A MATTER OF VITAL IMPORTANCE TO THE U.S. THAT THE FINAL TREATY DRAFT BE ONE WHICH THE U.S. WOULD BE ABLE TO SIGN AND HAVE RATIFIED BY THE U.S. CONGRESS; ANY TREATY CONTAINING AN EFFECTIVE PRODUCTION LIMITATION WAS UNLIKELY TO MEET THIS TEXT. SECOND, AS A PRACTICAL MATTER WE DID NOT, AS ILLUSTRATED IN RECENT DEPT, OF INTERIOR STUDY, SEE HOW THERE COULD BE ANY  
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EFFECTIVE DAMAGE TO CANADIAN PRODUCTION IN THE TWENTY YEAR INTERIM PERIOD. IT WOULD BE UNFORTUNATE IF THE ARTICLE 9 PROVISION WAS UNACCEPTABLE TO THE U.S., SINCE THE GREAT BULK OF THE TREATY PROVISIONS WERE IN BOTH THE U.S. AND THE CANADIAN INTERESTS. BEASLEY SAID THAT HIS GOVERNMENT STRONGLY AGREED WITH THIS LAST POINT.

12. BOTH US AND CANADIANS AGREED SITUATION SOMEWHAT UNCLEAR NOW IN VIEW OF LIKELY G-77 POSITION ON ARTICLE 9 NOW EMERGING (BUT UNLIKELY TO BE FORMALLY PRESENTED AT THIS SESSION) WHICH CALLS FOR AN EFFECTIVE PRODUCTION CONTROL. BEASLEY EXPRESSED HOPE THAT IF U.S. AND CANADIANS COULD AGREE ON A COMMON POSITION, IT MIGHT NEVERTHELESS BE POSSIBLE TO SELL THIS POSITION TO THE DEVELOPING COUNTRIES.  
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